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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,986	12/03/2003	David I. Suda	D0932-00383	5088

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3749

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/726,986

Applicant(s)

SUDA ET AL. *CD*

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031203, 20040330</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Information Disclosure Statement***

*and March 30, 2004*

The information disclosure statement filed December 3, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because some of the non patent literature references do not contain the required dates. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The Office objects to the numerous unrelated prior art references submitted with the present application. Nearly 100 references were submitted with about 1000 pages of text two review for determining the patentability of the claimed invention. After careful review of each reference, it can be concluded that none of the references are relevant to any of the claimed elements. Applicants are reminded of the duty of disclosure under MPEP 2004. It is requested that applicants avoid the submission of long lists of documents, eliminate clearly irrelevant and marginally pertinent cumulative information discussed under the thirteenth section of the MPEP. Also in the spirit of the *Penn Yan Boats* decision, it is requested to highlight those documents of the long list submitted,

Art Unit: 3749

which have been specifically brought to the applicants' attention and/or are known to be of most significance.

Appropriate correction is required.

***Requirement for Information***

In order perform a complete examination of the claimed invention, information is required that would typically be necessary for finding prior art and from analysis of the application file. The examiner's search and preliminary analysis, based on this action, demonstrates that the claimed subject matter cannot be adequately searched by class or keyword among patents and typical sources of non-patent literature and the application file justifies asking the applicants if information is available relevant to the patentability determination. The following information is required;

- 1) the trade name of any goods or services the claimed subject matter is embodied;
- 2) the citation for the dates initially published and copies of any advertising and promotional literature prepared for any goods or services the claimed subject matter has been embodied;
- 3) the citation for and copies of any journal articles describing any goods or services the claimed subject matter has been embodied;
- 4) the trade names and providers of any goods or services in competition with the goods or services the claimed subject matter has been embodied;
- 5) any written descriptions or analyses, prepared by any of the inventors or assignees, of goods or services in competition with the goods or services the

Art Unit: 3749

claimed subject matter has been embodied;

6) Identification of pending or abandoned applications filed by at least one of the inventors or assigned to the same assignee as the current application that disclose similar subject matter that are not otherwise identified in the current application;

7) an explanation of technical material in a publication, such as one of the inventor's publications;

8) publication date of an undated document mentioned by applicant that may qualify as printed publication prior art (35 U.S.C. 102(a) or (b)); and

9) comments on information of record which raises a question of whether applicant derived the invention from another under 35 U.S.C. 102(f).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wallin (US 3,060,589).

Claims 8-9 and 11-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Axer et al. (US 4,047,865).

Claims 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith, Jr. (US 3,231,985).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Axer in view of Wallin. Axer is considered to clearly anticipate the claimed invention, as rejected above, except for the claimed serpentine path. Wallin, another heating moving method, is considered to disclose the claimed serpentine path at column 1 lines 9-72. It would have been obvious to one skilled in the art to combine the clear anticipation of Axer with the serpentine path, considered disclosed in Wallin, for the purpose of allowing a zigzag flow path of material to be treated such that the treatment area method overall size can be minimized.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Wallin. Smith is considered to clearly anticipate the claimed invention, as rejected above, except for the claimed serpentine path. Wallin, another

Art Unit: 3749

heating moving method, is considered to disclose the claimed serpentine path at column 1 lines 9-72. It would have been obvious to one skilled in the art to combine the clear anticipation of Smith with the serpentine path, considered disclosed in Wallin, for the purpose of allowing a zigzag flow path of material to be treated such that the treatment area method overall size can be minimized.

Claims 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plumberg et al. (US 3,144,376) in view of Wallin. Plumberg is considered to clearly anticipate the claimed invention except for the claimed serpentine path. Wallin, another heating moving method, is considered to disclose the claimed serpentine path at column 1 lines 9-72. It would have been obvious to one skilled in the art to combine the clear anticipation of Plumberg with the serpentine path, considered disclosed in Wallin, for the purpose of allowing a zigzag flow path of material to be treated such that the treatment area method overall size can be minimized.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 571 272 4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3749

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG

January 13, 2005

*Stephen M. Lin*